

BILL LOCKYER, Attorney General
of the State of California
SAMUEL K. HAMMOND, State Bar No. 141135
Deputy Attorney General
Attorneys for Complainant

California Department of Justice
110 West "A" Street, Suite 1100
San Diego, CA 92101

P.O. Box 85266
San Diego, CA 92186-5266
Telephone: (619) 645-2083
Facsimile: (619) 645-2061

**BEFORE THE
RESPIRATORY CARE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

GERARDO DE LA TORRE
1039 13th Street
Imperial Beach, CA 91932

Respiratory Care Practitioner
License No. 20930,

Respondent.

Case No. R-2040

**STIPULATED SETTLEMENT FOR
PUBLIC REPRIMAND AND
DISCIPLINARY ORDER**

IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
above-entitled proceedings that the following matters are true:

PARTIES

1. Stephanie Nunez (Complainant) is the Executive Officer of the
Respiratory Care Board of California. She brought this action solely in her official capacity and
is represented in this matter by Bill Lockyer, Attorney General of the State of California, by
Samuel K. Hammond, Deputy Attorney General .

2. Gerardo De La Torre (Respondent) is representing himself in this
proceeding and has chosen not to exercise his right to be represented by counsel.

3. On or about August 12, 1999, the Respiratory Care Board of California
issued Respiratory Care Practitioner License No. 20930 to Gerardo De La Torre (Respondent).

1 The License was in full force and effect at all times relevant to the charges brought in Accusation
2 No. R-2040 and will expire on August 31, 2008, unless renewed.

3 **JURISDICTION**

4 4. The Accusation in Case No. R-2040 was filed before the Respiratory Care
5 Board (Board), Department of Consumer Affairs, and is currently pending against Respondent.
6 The Accusation and all other statutorily required documents were properly served on Respondent
7 on July 19, 2006. Respondent timely filed his Notice of Defense contesting the Accusation. A
8 copy of the Accusation in Case No. R-2040 is attached as Exhibit A and incorporated herein by
9 reference.

10 **ADVISEMENT AND WAIVERS**

11 5. Respondent has carefully read, fully discussed with counsel, and
12 understands the charges and allegations in Accusation No. R-2040. Respondent has also
13 carefully read, fully discussed with counsel, and understands the effects of this Stipulated
14 Settlement and Disciplinary Order.

15 6. Respondent is fully aware of his legal rights in this matter, including the
16 right to a hearing on the charges and allegations in the Accusation; the right to be represented by
17 counsel at his own expense; the right to confront and cross-examine the witnesses against him;
18 the right to present evidence and to testify on his own behalf; the right to the issuance of
19 subpoenas to compel the attendance of witnesses and the production of documents; the right to
20 reconsideration and court review of an adverse decision; and all other rights accorded by the
21 California Administrative Procedure Act and other applicable laws.

22 7. Respondent voluntarily, knowingly, and intelligently waives and gives up
23 each and every right set forth above.

24 **CULPABILITY**

25 8. Respondent admits the truth of each and every charge and allegation in
26 Accusation Case No. R-2040.

27 ///

28 ///

9. Respondent agrees that his Respiratory Care Practitioner License is subject to discipline and he agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

CONTINGENCY

10. This stipulation shall be subject to approval by the Respiratory Care Board. Respondent understands and agrees that counsel for Complainant and the staff of the Respiratory Care Board of California may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

11. The parties understand and agree that facsimile or other copies of this Stipulated Settlement and Disciplinary Order, including the signatures thereto, shall have the same force and effect as the originals.

12. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

13. The admissions made by Respondent herein are only for the purposes of this proceeding, or any other proceedings in which the Respiratory Care Board of California or other professional licensing agency is involved.

14. If this Stipulation is not adopted by the Board, it shall have no force and effect on any party.

///

///

///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Gerardo De La Torre, Respiratory Care Practitioner License No. 20930, shall be publicly reprimanded by the Board. This document shall constitute the formal public reprimand, and shall provide that, based on the admissions by Respondent in paragraph 8 of this Stipulation, Respondent is ordered to comply with the following terms and conditions:

- A. Agree that no future violations of law will occur; and
- B. Pay to the Board the costs in the amount of \$669.00, payable within one year from the effective date of this Decision.

NON-COMPLIANCE WITH DISCIPLINARY ORDER

In the event respondent fails to comply with each and every term and condition set forth above, such failure shall be deemed a violation of Business and Professions Code section 3750(g), and the Board, after giving notice and an opportunity to be heard, may take additional disciplinary action against respondent.

ACCEPTANCE

I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the stipulation and the effect it will have on my Respiratory Care Practitioner's License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Respiratory Care Board.

DATED: August 16, 2006

Original signed by:
GERARDO DE LA TORRE
Respondent

///
///
///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Respiratory Care Board of the Department of Consumer Affairs.

DATED: August 23, 2006

BILL LOCKYER, Attorney General
of the State of California

Original signed by:
SAMUEL K. HAMMOND
Deputy Attorney General

Attorneys for Complainant

**BEFORE THE
RESPIRATORY CARE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. R-2040

GERARDO DE LA TORRE
1039 13th Street
Imperial Beach, CA 91932

Respiratory Care Practitioner
License No. 20930,

Respondent.

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Respiratory Care Board, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on October 13, 2006.

It is so ORDERED October 3, 2006.

Original signed by:
LARRY L. RENNER, BS, RRT, RCP, RPFT
PRESIDENT, RESPIRATORY CARE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA